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Attorneys for Plaintiffs
ANDRÉ BENJAMIN; THE BENJAMIN COMPANY,
LLC; HIGH SCHOOLERS, LLC; ANDRE 3000, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRE BENJAMIN, an individual;
THE BENJAMIN COMPANY,
LLC, limited liability company; HIGH
SCHOOLERS, LLC, a limited
liability company; and ANDRE
3000, INC., a corporation,

Plaintiffs,

vs.

GREGORY BIXBY, an individual; BEN
BIXBY or in the alternative BENJAMIN
BIXBY, an individual; LOCK JAW
RACING, a corporation; and DOES 1
through 10,

Defendants.

CASE NO. 1:08-CV-01025-AWI-DLB

**ORDER (1) VACATING DEFAULT, (2)
SETTING TIME TO ANSWER FIRST
AMENDED COMPLAINT, AND (3)
CONTINUING SCHEDULING
CONFERENCE**

Complaint Filed: July 17, 2008

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[PROPOSED] ORDER VACATING DEFAULT,
SETTING TIME TO ANSWER FIRST AMENDED COMPLAINT,
AND CONTINUING SCHEDULING CONFERENCE

DREIER STEIN KAHAN
BROWNE WOODS GEORGE LLP**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

WHEREAS, Plaintiffs Andre Benjamin, The Benjamin Company, LLC, High Schoolers, LLC, and Andre 3000, Inc. (collectively, "Plaintiffs") filed the original Complaint in this action on July 17, 2008;

WHEREAS, Plaintiffs filed their First Amended Complaint in this action on July 30, 2008;

WHEREAS, on August 29, 2008, Plaintiffs filed Requests for Entry of Default against Defendants Gregory Bixby and Benjamin Bixby (together, "Defendants") (the "Requests for Entry of Default");

WHEREAS, on September 3, 2008, the Clerk granted Plaintiffs' Requests for Entry of Default and entered the defaults against Defendants;

WHEREAS, Defendants contest whether service of the summons and complaint on which the entries of default were based were proper under applicable law and rules;

WHEREAS, Plaintiffs and Defendants have entered into a Stipulation requesting that the Court vacate the Clerk's Entries of Default against Defendants Gregory Bixby and Benjamin Bixby (which was filed with the Court on November 25, 2008);

WHEREAS, the Court Clerk instructed counsel for Plaintiffs to submit this Order;

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987339_1.100 **NOW, THEREFORE, IT IS HEREBY ORDERED:**

[PROPOSED] ORDER VACATING DEFAULT,
SETTING TIME TO ANSWER FIRST AMENDED COMPLAINT,
AND CONTINUING SCHEDULING CONFERENCE

1 (1) The entries of default against Defendants Gregory Bixby and Benjamin
2 Bixby are vacated;

3 (2) Defendants Gregory Bixby and Benjamin Bixby shall file and serve their
4 answer to the First Amended Complaint by no later than twenty (20) days from the date of the
5 entry of this Order; and

6 (3) The Scheduling Conference currently scheduled for February 2, 2009, at
7 8:45 a.m. in Courtroom 9 before Magistrate Judge Dennis L. Beck, is continued to March 16,
8 2009, at 8:30 a.m. in Courtroom 9 before Magistrate Judge Dennis L. Beck.

9
10 2 February 2009

11 /s/ Dennis L. Beck
12 United States Magistrate Judge
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